

State of California
California Environmental Protection Agency
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking,
Including Summary of Comments and Agency Response**

PUBLIC HEARING TO CONSIDER THE ADOPTION OF A TEST PROCEDURE FOR
PRESSURE/VACUUM VENT VALVES AND AMENDMENTS TO THE REGULATION
FOR CERTIFICATION OF VAPOR RECOVERY SYSTEMS AT
GASOLINE DISPENSING FACILITIES (SERVICE STATIONS)

Public Hearing Date: May 25, 2006
Agenda Item No.: 06-5-3

I. GENERAL

The Air Resources Board (Board or ARB) certifies the vapor recovery equipment that is used throughout California in service stations, also referred to as gasoline dispensing facilities (GDFs). Control of air pollutant emissions from GDFs is necessary to reduce hydrocarbon emissions that lead to the formation of ozone and to control emissions of benzene, a constituent of gasoline vapor that has been identified as a toxic air contaminant. The Board is currently implementing the Enhanced Vapor Recovery (EVR) program, which has revised the performance standards and specifications for vapor recovery equipment at GDFs. The present rulemaking further revises the EVR program in ARB's ongoing effort to ensure that emission decreases from GDFs are realized.

The rulemaking was initiated on April 7, 2005 with the release of a notice and staff report, entitled "Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Public Hearing to Consider the Proposed Adoption of a Test Procedure for Pressure/Vacuum Vent Valves and Proposed Amendments to the Regulation for Certification of Vapor Recovery Systems at Gasoline Dispensing Facilities (Service Stations)," which is incorporated by reference herein (Staff Report or ISOR). The Final Statement of Reasons (FSOR) updates the Staff Report and summarizes the public comments received and presents the Board's responses to the comments.

On May 25, 2006, the Board conducted a public hearing to consider ARB staff's proposed amendments to the certification and test procedures. After consideration of the written comments received during the 45-day public comment period prior to the hearing and the testimony received at the public hearing, the Board acted in Resolution 06-17 to amend the regulations that incorporate by reference the revised certification and test procedures. The amendments are to the regulations in title 17, California Code of Regulations (CCR), sections 94010, 94011, and 94167. The

incorporated, amended certification and test procedures are: CP-201, Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities; D-200, Definitions for Vapor Recovery Procedures; TP-201.2G, Bend Radius Determination for Underground Storage Tank Vapor Return Piping; TP-201.2I, Test Procedure for In-Station-Diagnostic Systems; and a new incorporated test procedure, TP-201.1E CERT, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves.

Fiscal Impacts. In developing the regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons and businesses. The Executive Officer is not aware of any costs that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Although not quantifiable, cost savings for vapor recovery equipment manufacturers may occur due to 1) changes to the certification requirements (potentially fewer terminated certification tests), 2) changes to the pressure/vacuum (P/V) valve performance specifications and test procedure (potentially fewer terminated certification tests), and 3) improvements in the certification process (more clearly defined and simplified). Cost savings for service station operators may occur when conducting P/V valve testing under the amended P/V valve performance specifications as there may be fewer test failures and P/V valve replacements. A complete assessment of the economic impacts of the proposed regulatory action is presented in the Staff Report.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that this regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, except as discussed above, or other nondiscretionary savings to state or local agencies.

The Executive Officer has determined that this regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that this amendment will not affect the creation or elimination of jobs within the State of California, the creation of new businesses and the elimination of existing businesses within the State of California, and the expansion of businesses currently doing business within the State of California.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that this regulatory action will affect small businesses that own or operate gasoline service stations.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements in the regulations and incorporated documents that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

The Board has further determined that no alternative considered by the agency would be as effective as and less burdensome to affected private persons or businesses than the action taken by the Board.

II. Modifications to the Original Proposal

At the hearing the staff presented and the Board adopted the amended regulations as proposed in the Staff Report released on April 7, 2006. No substantive modifications to the proposed amendments were directed by the Board. Pursuant to Government Code section 11346.8(c) and section 40, title 2 of the California Code of Regulations, staff has made a number of nonsubstantial and grammatical changes. These are summarized below.

1. CP-201, Table of Contents: edited the table of contents to correctly reflect the adopted regulation; deleted Section 2.5, modified the title for Section 19 and deleted 19.1 and 19.2.
2. CP-201, Section 1: corrected the acronym for the California Air Resources Board to "ARB" throughout the section.
3. CP-201, Table 2-1: corrected the "Requirement" section reference for onboard refueling vapor recovery (ORVR) from 2.4.5 to 2.4.6.
4. CP-201, Section 2.1: added the underlined phrase, "Ongoing compliance with all applicable performance standards, including any more stringent standards requested by the applicant, shall be demonstrated throughout certification testing."
5. CP-201, Section 2.2: added the underlined phrase, "Ongoing compliance with all applicable performance specifications, including any more stringent specifications requested by the applicant, shall be demonstrated throughout certification testing."
6. CP-201, Section 2.4: parentheses removed and reworded to "amended performance standards."
7. CP-201, Section 3.5: corrected wording as shown, "Verification of Compliance ~~with~~ the P/V valve requirements set forth below shall be determined during certification by TP-201.1E CERT, (Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves)."

8. CP-201, Section 4.5.1: corrected wording as shown, "Unless otherwise specified by the applicant, compatibility with all other certified Phase I systems shall be evaluated by ARB."
9. CP-201, Table 6-1: corrected the test procedure reference for nozzle vapor valve leakrate from TP-201.2J to TP-201.2B.
10. CP-201, Table 6-1: corrected the test procedure reference for nozzle pressure drop from TP-201.2B to TP-201.2J.
11. CP-201, Section 9 (as renumbered): parentheses added as appropriate throughout the section on the word "point(s)."
12. CP-201, Section 11: corrected wording as shown, "Test results shall be submitted for an operational test of at least 30 days, for a test of at least 50 vehicles demonstrating adequate collection, and for at least 200 observations of spillage (including at least 40 percent fills-ups), or equivalent verification that the system is capable of meeting the performance standards and specifications."
13. CP-201, Section 13: corrected the reference to the "installation, operationg, and maintenance manual."
14. CP-201, Section 18.1.6: corrected numbering as shown, "Applicable information specified in Section 11.2, and."
15. TP-201.1E CERT, Section 6.1: corrected wording as shown, "All pressure measuring devices(s) shall be tested for accuracy using a reference gauge, incline manometer, or National Institute of Standards and Technology (NIST) traceable standard ~~at least~~ within six (6) months prior to the test."
16. TP-201.1E CERT, Section 9.3: corrected numbering as shown, "TR = the result from Section ~~89.2~~;" Section 10.5, "Use the formulas and example equation provided in Section ~~89~~ to convert the flow measurements to units of ml/min;" and Section 10.6, "(as specified in Section ~~89.3~~).")
17. TP-201.2G, Form 1: The proposed amendments to the form regarding sections 7.2 and 7.3 were deleted as they are not needed.
18. D-200, definition of gasoline: cross reference is corrected, "**gasoline** Any petroleum distillate having a Reid vapor pressure of four pounds or greater and meeting the requirements of title 13, California Code of Regulations, division 3, chapter 5, article 1, beginning with section 2250~~et seq.~~"
19. D-200, definition of operational tests: corrected wording to: "for a duration of less than."

III. Summary of Comments and Testimony Received in Response to 45-Day Notice and Agency Responses

List of Comments Received

| ORGANIZATION | REPRESENTATIVE |
|--|----------------------------------|
| California Air Pollution Control Officers Association (CAPCOA) | Barbara Lee (written) |
| California Independent Oil Marketers Association (CIOMA) | Jay McKeeman (oral & written) |
| Western States Petroleum Association (WSPA) | Steven Arita (oral & written) |

Set forth below is a summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change. The requirement applies only to objections or recommendations directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action. The agency may aggregate and summarize repetitive or irrelevant comments as a group, and may respond to repetitive comments or summarily dismiss irrelevant comments as a group. For the purposes of this paragraph, a comment is "irrelevant" if it is not specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action.

Comment by CAPCOA

- Comment: CAPCOA supports the proposed revisions. The addition of the State Water Resources Board review of applications for equipment certification will support certification of new vapor recovery systems and components which will meet both air and water pollution evaluation of certification renewal applications and streamline the process of addressing deficiencies in certified system components.

Response: The Board appreciates CAPCOA's support of the proposed amendments.

Comments by CIOMA

- Comment: We fully support and commend CARB staff for including language that provides compliance with AB 2955 (Mc Cathy, 2004). We have reviewed the language developed by staff and agree that it meets the requirements of AB 2955. It is unfortunate that we had to sponsor legislation requiring agencies

to effectively cooperate, but appreciate the appropriate codification of the Legislative intent by the proposed regulatory amendments.

Response: The Board appreciates CIOMA's support of the amendment.

3. Comment: The regulatory change package contains provisions relating to the authority of the Executive Officer to make changes in implementation dates based upon lack of certified equipment being available. We recommend that the Executive Officer either be given the authority to make "back-end" adjustments, or exercise that authority if currently available. More than half of the stations in California are equipped with balance systems and there are currently no balance systems under certification testing to meet the EVR standards and specifications. There may be insufficient time for stations with balance systems to comply and the conversion cost may be high especially when converting a balance system to an assist system. We suggest that the Executive Officer have/exercise the authority to move both the front-end and the back-end compliance dates giving affected parties equal opportunity to meet these new, untested, technology-forcing requirements.

Response: The Board recognizes these concerns. Staff is working to certify additional Phase II systems, including balance systems. In addition, staff is looking at the cost of converting a balance system to an assist system to determine if conversion remains cost effective. Staff's review includes looking at the existing infrastructure and other issues to determine if there are sufficient capacities to undertake retrofits of GDFs throughout California for compliance with the EVR requirements by 2009. By 2007, staff expects to complete the analysis. Within the next several months, staff will discuss the initial results of the analysis with the affected public. If necessary, staff will bring a proposal to the Board for consideration.

4. Comment: CIOMA requests the regulations on commercial availability be changed to one week rather than three weeks for components of systems that meets the current standards.

Response: The issue raised by CIOMA is outside of the scope of the amendments proposed in the rulemaking. Although section 19 of CP-201 was amended, the section deals with the commercial availability of replacement parts for terminated, superseded, expired, or revoked systems. No amendments were proposed on the availability of components of systems that meet the currently operative EVR program standards and specifications. However, staff will consider the request and would like the opportunity to discuss it with the affected public. Staff may propose amendments in a future rulemaking.

5. Comment: CIOMA commented and testified on other aspects of the vapor recovery regulations not proposed for amendment. The attachments to the

CIOMA comment letter also related to issues apart from the proposed regulatory amendments.

Response: Pursuant to Government Code section 11346.9(a)(3), ARB will not respond to these comments and testimony as they are not relevant to the proposed amendments.

Comment by WSPA

6. Comment: WSPA supports the proposed amendments to section 94011, title 17 as well as changes to Certification and Test procedures by staff. WSPA also commented and testified on other aspects of the vapor recovery regulations not proposed for amendment. The attachments to the WSPA comment letter also related to issues apart from the proposed regulatory amendments.

Response: The Board appreciates WSPA's support of the proposed amendments. Pursuant to Government Code section 11346.9(a)(3) ARB will not respond to the comments and testimony that are not relevant to the proposed regulations.